

## § 1415.9

## 7 CFR Ch. XIV (1–1–16 Edition)

greatest risk from the threat of conversion to uses other than grazing;

(3) Plant and animal biodiversity; and

(4) In ranking parcels offered by eligible entities, these additional criteria will also be considered—

(i) Leveraging of non-Federal funds, and

(ii) Entity contributions in excess of 50 percent of the purchase price, as defined in §1415.3.

(d) When funding is available, NRCS State Conservationists and FSA State Executive Directors will periodically select for funding the highest ranked applications, including applications from entities under §1415.17, based on applicant and land eligibility and the State-developed ranking criteria.

(e) NRCS State Conservationists and FSA State Executive Directors may establish separate ranking pools to address, for example, specific conservation issues raised by State, regional, and national conservation priorities.

(f) The NRCS State Conservationist and FSA State Executive Director, with advice from the State Technical Committee, may emphasize enrollment of unique grasslands or specific geographic areas of the State.

(g) The NRCS State Conservationist and the FSA State Executive Director, with advice from the State Technical Committee, will select applications for funding.

(h) If available funds are insufficient to accept the highest ranked application, and the applicant is not interested in reducing the acres offered to match available funding, the State Conservationist or State Executive Director may select a lower ranked application that can be fully funded.

(i) Land enrolled in a Conservation Reserve Program (CRP) contract that is within one year of the scheduled expiration date will receive a priority for enrollment. To receive this priority, the following criteria must be met:

(1) The land must be eligible as defined in §1415.5;

(2) USDA, with advice from the State Technical Committee, must determine it is of high ecological value and under significant threat of conversion to uses other than grazing;

(3) The land must be offered for easement or 20-year rental contract enrollment;

(4) Expired CRP land enrolled under this priority will not exceed 10 percent of the total number of acres accepted for national enrollment in GRP in any year; and

(5) This priority applies only up to 12 months before the scheduled expiration of the CRP contract.

(j) USDA will manage the program nationally to ensure that, to the extent practicable, 60 percent of funds are used for the purchase of easements, either directly or through cooperative agreements with eligible entities as set forth in §1415.17 and 40 percent of funds are used for rental contracts.

### § 1415.9 Enrollment of easements and rental contracts.

(a) Based on the priority ranking, NRCS or FSA, as appropriate, will notify applicants in writing of their tentative acceptance into the program for either rental contract or conservation easement options. The letter notifies the applicant of the intent to continue the enrollment process unless otherwise notified by the applicant. Enrollment under cooperative agreements is described under §1415.17.

(b) An offer of tentative acceptance into the program neither binds USDA to acquire an easement or enter into a rental contract, nor binds the applicant to convey an easement, enter into a rental contract, or agree to restoration activities.

(c) Offer of enrollment will be through either:

(1) An agreement to purchase an easement presented by NRCS to the applicant which will describe the easement, the easement terms and conditions, and other terms and conditions that may be required by NRCS; or

(2) A rental contract will be presented by FSA to the applicant which will describe the contract area, the contract terms and conditions, and other terms and conditions that may be required by FSA.

(d) For rental contracts, land will be considered to be enrolled in GRP once an FSA representative approves the GRP rental contract. FSA may withdraw the offer before approval of the

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contract due to lack of available funds or other reasons.

(e) For easements, after the option agreement to purchase an easement is executed by NRCS and the participant, the land will be considered enrolled in GRP. NRCS will proceed with the development of the GRP management plan, conservation or restoration plan if applicable, and various easement acquisition activities, which may include conducting a legal survey of the easement area, securing necessary subordination agreements, procuring title insurance, and conducting other activities necessary to record the easement or implement GRP.

(f) Prior to closing an easement, NRCS may withdraw the land from enrollment at any time due to lack of available funds, title concerns, or other reasons.

### § 1415.10 Compensation for easements and rental contracts acquired by the Secretary.

(a) The Chief will not pay more than the fair market value of the land, less the grazing value of the land encumbered by the easement.

(b) To determine this amount, the Chief will pay as compensation the lowest of:

(1) The fair market value of the land encumbered by the easement as determined by the Chief using—

(i) The Uniform Standards of Professional Appraisal Practice, or

(ii) An area-wide market analysis or market survey;

(2) The amount corresponding to a geographical cap, as determined by the State Conservationist, with advice from the State Technical Committee; or

(3) An offer made by the landowner.

(c) For 10-, 15-, and 20-year rental contracts, the participant will receive not more than 75 percent of the grazing value in an annual payment for the length of the contract, as determined by FSA. As provided by the regulations at part 1400 of this title, payments made under one or more rental contracts to a person or legal entity, directly or indirectly, may not exceed, in the aggregate, \$50,000 per year.

(d) In order to provide for better uniformity among States, the NRCS Chief

and FSA Administrator may review and adjust, as appropriate, State or other geographically based payment rates for rental contracts.

(e) Easement or rental contract payments received by a participant will be in addition to, and not affect, the total amount of payments that the participant is otherwise eligible to receive under other USDA programs.

(f) Easement payments will be made in a single payment to the landowner unless otherwise requested by the landowner.

(g) USDA may accept and use contributions of non-Federal funds to support the purposes of the program. These funds are available to USDA without further appropriation and until expended, to carry out the program.

(h) USDA recognizes that environmental benefits will be achieved by implementing conservation practices and activities funded through GRP, and that ecosystem credits may be gained as a result of implementing activities compatible with the purposes of a GRP easement, rental contract, or associated restoration agreement. USDA asserts no direct or indirect interest in these credits except:

(1) In the event the participant sells or trades credits arising from GRP funded activities, USDA retains the authority to ensure that the requirements for GRP rental contracts, easements, or restoration agreements are met and maintained consistent with this part; and

(2) If activities required under an ecosystem credit agreement may affect land covered under a GRP rental contract, easement, or restoration agreement, participants are required to obtain an assessment from USDA about the compatibility of the activity prior to entering into such agreements.

### § 1415.11 Restoration agreements.

(a) Restoration agreements are only authorized to be used in conjunction with easements and rental contracts. NRCS, in consultation with the program participant, determines if the grassland resources are adequate to meet the participant's objectives and the purposes of the program, or if a restoration agreement is needed. Such a